

House File 2226 - Introduced

HOUSE FILE 2226
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO HSB 510)

A BILL FOR

1 An Act relating to child abuse reports and disposition data.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.71D, subsection 2, Code Supplement
2 2011, is amended to read as follows:

3 2. Except as otherwise provided in subsections 3 and 4,
4 and section 235A.19, subsection 2, if the department issues
5 a finding that the alleged child abuse meets the definition
6 of child abuse under section 232.68, subsection 2, the names
7 of the child and the alleged perpetrator of the alleged child
8 abuse and any other child abuse information shall be placed in
9 the central registry as a case of founded child abuse.

10 Sec. 2. Section 235A.19, subsection 1, Code Supplement
11 2011, is amended to read as follows:

12 1. A subject of a child abuse report, as identified in
13 section 235A.15, subsection 2, paragraph "a", shall have the
14 right to examine report data and disposition data which refers
15 to the subject. The department may prescribe reasonable
16 hours and places of examination. A subject of a child abuse
17 report may provide additional information to the department
18 that is relevant to the report data and disposition data and
19 may request that the department revise the report data and
20 disposition data.

21 Sec. 3. Section 235A.19, Code Supplement 2011, is amended by
22 adding the following new subsection:

23 NEW SUBSECTION. 1A. At the time the notice of the results
24 of an assessment performed in accordance with section 232.71B
25 is issued, the department shall provide notice to a person
26 named in the report as having abused a child of the right to
27 a contested case hearing and shall provide notice to subjects
28 other than the person named in the report as having abused a
29 child of the right to intervene in a contested case proceeding,
30 as provided in subsection 2.

31 Sec. 4. Section 235A.19, subsections 2 and 3, Code
32 Supplement 2011, are amended to read as follows:

33 2. a. A subject of a child abuse report may file with the
34 department within ninety days of the date of the notice of the
35 results of an assessment performed in accordance with section

1 232.71B, a written statement to the effect that report data and
2 disposition data referring to the subject is in whole or in
3 part erroneous, and may request a correction of that data or of
4 the findings of the assessment report.

5 b. The department shall provide ~~the subject~~ a person named
6 in a child abuse report as having abused a child, who has
7 been adversely affected by a founded child abuse disposition,
8 notwithstanding the placement of the report data in the central
9 registry pursuant to section 232.71D, with an opportunity for a
10 contested case hearing pursuant to chapter 17A to correct the
11 data or the findings, unless the department corrects the data
12 or findings as requested.

13 c. The department shall provide a subject of a child
14 abuse report, other than the person named in the report as
15 having abused a child, with an opportunity to file a motion to
16 intervene in the contested case proceeding.

17 d. The department may defer the hearing until the conclusion
18 of the adjudicatory phase of a pending juvenile or district
19 court case relating to the data or findings. Upon request
20 of any party to the contested case proceeding, the presiding
21 officer may stay the hearing until the conclusion of the
22 adjudicatory phase of a pending juvenile or district court case
23 relating to the data or findings. An adjudication of a child
24 in need of assistance or a criminal conviction in a district
25 court case relating to the child abuse data or findings may be
26 determinative in a contested case proceeding.

27 e. A party to a contested case proceeding shall file an
28 appeal of the presiding officer's proposed decision to the
29 director within ten days of the presiding officer's proposed
30 decision. If an appeal is not filed within ten days from the
31 date of a proposed decision, the proposed decision shall be
32 the final agency action. If a party files an appeal within
33 ten days from the date of the proposed decision, the director
34 has forty-five days from the date of the proposed decision to
35 issue a ruling. Upon the director's failure to issue a ruling

1 within forty-five days of the date of the proposed decision,
2 the proposed decision shall be the final agency action.

3 ~~b-~~ f. The department shall not disclose any report data
4 or disposition data until the conclusion of the proceeding to
5 correct the data or findings, except as follows:

6 (1) As necessary for the proceeding itself.

7 (2) To the parties and attorneys involved in a judicial
8 proceeding.

9 (3) For the regulation of child care or child placement.

10 (4) Pursuant to court order.

11 (5) To the subject of an assessment or a report.

12 (6) For the care or treatment of a child named in a report
13 as a victim of abuse.

14 (7) To persons involved in an assessment of child abuse.

15 (8) For statutorily authorized record checks for employment
16 of an individual by a provider of adult home care, adult health
17 facility care, or other adult placement facility care.

18 (9) For others identified in section 235A.15, subsection
19 2, paragraph "d", subparagraph (7), and paragraph "e",
20 subparagraphs (9) and (16).

21 3. ~~The subject of a~~ A person named in a child abuse report
22 as having abused a child, who has been adversely affected by a
23 founded child abuse disposition, notwithstanding the placement
24 of the report data in the central registry pursuant to section
25 232.71D, may appeal the decision resulting from a hearing held
26 pursuant to subsection 2 to the district court of Polk county
27 or to the district court of the district in which the ~~subject~~
28 ~~of the child abuse~~ person named in the report as having abused
29 a child resides. Immediately upon appeal the court shall order
30 the department to file with the court a certified copy of the
31 report data or disposition data. Appeal shall be taken in
32 accordance with chapter 17A.

33 Sec. 5. CHILD ABUSE REPORTS — DIFFERENTIAL RESPONSE
34 REVIEW.

35 1. The department of human services shall conduct a

1 comprehensive review to determine whether to recommend
2 implementation of a differential response to child abuse
3 reports when the initial report is received by the department
4 pursuant to section 232.70. The department of human services
5 shall also review and recommend the length of time a person
6 named in a child abuse report as having abused a child should
7 remain on the child abuse registry and the circumstances under
8 which the department may remove the name of a person named
9 in the report as having abused a child from the report and
10 disposition data prior to the expiration of a ten-year period.

11 2. "Differential response", as used in this section, means
12 at least two discrete response options for the screening of
13 cases constituting a child abuse allegation pursuant to the
14 department's assessment process. One of the options shall
15 include a voluntary, noninvestigative response.

16 3. The department shall, by December 1, 2012, submit a
17 report of its review including findings and recommendations to
18 the governor and general assembly.

19 Sec. 6. REPORT ON CHILD ABUSE ASSESSMENTS ADMINISTRATIVE
20 APPEALS. The department of human services and the department
21 of inspections and appeals shall, by December 1, 2012, submit
22 a preliminary report to the governor and general assembly
23 regarding the length of time for appeals of placement on
24 the child abuse registry within the last five years. The
25 department of human services and the department of inspections
26 and appeals shall submit a final report to the governor and
27 the general assembly by December 1, 2013. The preliminary
28 and final reports shall include information on the number of
29 persons appealing, the alleged reason for the placement, the
30 length of time for an appeal including the time between a
31 request for a contested case hearing and the occurrence of the
32 contested case hearing, the proposed decision of the presiding
33 officer, and, if the proposed decision was appealed, the review
34 of the director, and the reasons for outliers in the length of
35 time for an appeal.

EXPLANATION

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2 This bill amends provisions relating to the child abuse
3 registry and child abuse reports and disposition data. The
4 bill amends Code section 235A.19 to allow a subject of a
5 child abuse report to provide additional information to the
6 department of human services (DHS) concerning report data
7 and disposition data. A subject of a child abuse report may
8 also request that the department revise the report data and
9 disposition data.

10 The bill also amends Code section 235A.19 to require DHS
11 to provide subjects of the child abuse report with notice of
12 the right to appeal or intervene at the time the notice of
13 the results of the assessment is issued. The bill requires
14 DHS to provide only the alleged perpetrator of the abuse,
15 regardless of whether the data is placed on the registry, with
16 an opportunity for a contested case hearing and the right to
17 appeal from the contested case hearing. Current law allows
18 such rights to all subjects of a child abuse report. However,
19 the bill also requires DHS to provide all other subjects,
20 as defined in Code section 235A.15, subsection 2, with an
21 opportunity to intervene in the contested case proceeding.

22 The bill further provides that upon the request of any party
23 to the contested case proceeding, the presiding officer may
24 stay the hearing until the conclusion of the adjudicatory phase
25 of a juvenile case or a district court case that is related to
26 the data or findings. The bill states that an adjudication
27 of a child in need of assistance or a criminal conviction in
28 district court that is related to the data or findings may be
29 determinative in a contested case proceeding.

30 The bill provides that a party to a contested case proceeding
31 has 10 days to file an appeal from the proposed decision of
32 the presiding officer of the contested case proceeding to the
33 director of the department of human services. If an appeal is
34 not filed within that 10-day period, the proposed decision of
35 the presiding officer is the final agency action. If an appeal

1 is filed within the 10-day period, the director has 45 days
2 from the date of the proposed decision to issue a ruling. If
3 the director fails to issue a ruling within the 45-day period,
4 the presiding officer's proposed decision is the final agency
5 action.

6 The bill also requires DHS to conduct a comprehensive
7 review to determine whether to recommend implementation of a
8 differential response when initially receiving a child abuse
9 report. DHS must also review and recommend the length of
10 time a person named in a child abuse report as having abused
11 a child should remain on the registry and circumstances for
12 removing the name of a person named in a child abuse report as
13 having abused a child from the registry. The bill requires DHS
14 to submit a report of its determination to the governor and
15 general assembly by December 1, 2012.

16 The bill also requires the DHS and the department of
17 inspections and appeals to submit a preliminary report to the
18 governor and general assembly by December 1, 2012, regarding
19 the length of time for appeals of placement on the child
20 abuse registry. The bill requires DHS and the department of
21 inspections and appeals to submit a final report regarding the
22 length of time for appeals of placement on the child abuse
23 registry by December 1, 2013.